

House Engrossed Senate Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

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CHAPTER 282

SENATE BILL 1359

AN ACT

AMENDING SECTIONS 45-113, 45-115 AND 45-116, ARIZONA REVISED STATUTES;
AMENDING TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
SECTION 45-117; AMENDING SECTIONS 45-183, 45-273, 45-292, 45-411.01, 45-467,
45-476.01, 45-595, 45-612, 45-703, 45-871.01, 45-874.01, 45-1021, 45-1041,
45-1205, 45-1212.01, 45-1220, 45-1603 AND 45-1605, ARIZONA REVISED STATUTES;
RELATING TO THE DEPARTMENT OF WATER RESOURCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-113, Arizona Revised Statutes, is amended to
3 read:

4 45-113. Fees; refunds

5 A. Except as otherwise prescribed, the director shall establish by
6 rule and shall collect reasonable fees to cover the costs of administrative
7 services and expenses.

8 B. Except as otherwise prescribed, the director may establish by rule
9 and collect fees for applications, certificates, licenses and permits
10 relating to surface water, groundwater, water exchanges, wells, grandfathered
11 rights, substitution of acres, adequate and assured water supply, groundwater
12 oversupply and lakes and for inspections relating to dam safety.

13 C. If the director determines that a fee, including a fee collected
14 pursuant to section 45-611, has been erroneously paid during the same fiscal
15 year or during any prior fiscal year, the director shall make an
16 administrative adjustment or a refund, without interest, from the agency fund
17 in which the fee was originally deposited to the current holder of the right,
18 application or registration for which the fee was paid.

19 D. This section does not apply to fees paid or payable under section
20 45-254 or section 45-255, subsection B.

21 E. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, THE DIRECTOR
22 SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE MONIES COLLECTED
23 UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

24 F. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
25 THE FEES COLLECTED UNDER THIS SECTION RELATING TO ADEQUATE AND ASSURED WATER
26 SUPPLY PURSUANT TO SECTIONS 45-108, 45-576 AND 45-579 IN THE ASSURED AND
27 ADEQUATE WATER SUPPLY ADMINISTRATION FUND ESTABLISHED BY SECTION 45-580.

28 Sec. 2. Section 45-115, Arizona Revised Statutes, is amended to read:

29 45-115. Production and copying fund; use; account; nonreversion

30 A. The department of water resources production and copying fund is
31 established consisting of monies paid to the department for publications
32 produced by the department and for copies of department records. The
33 department shall administer the fund. Monies in the fund are continuously
34 appropriated and shall be used for expenses incurred by the department in
35 producing and distributing publications of the department and for copying
36 department records for the public.

37 B. The fund shall be a separate account on the books of the
38 department. Monies remaining in the fund at the end of the fiscal year
39 remain in the fund, except that any monies in excess of twenty thousand
40 dollars at the end of the fiscal year revert to the ~~state general fund~~ WATER
41 RESOURCES FUND ESTABLISHED BY SECTION 45-117.

1 Sec. 3. Section 45-116, Arizona Revised Statutes, is amended to read:

2 45-116. Publication and mailing fund; use; account;

3 nonreversion

4 A. The department of water resources publication and mailing fund is
5 established consisting of monies paid to the department for the publication
6 and mailing of legal notices required by law. The department shall
7 administer the fund. Monies in the fund are continuously appropriated and
8 shall be used for expenses incurred by the department in publishing and
9 mailing legal notices required by law.

10 B. The fund shall be a separate account on the books of the
11 department. Monies remaining in the fund at the end of the fiscal year
12 remain in the fund, except that any monies in excess of twenty thousand
13 dollars at the end of the fiscal year revert to the ~~state general fund~~ WATER
14 RESOURCES FUND ESTABLISHED BY SECTION 45-117.

15 Sec. 4. Title 45, chapter 1, article 1, Arizona Revised Statutes, is
16 amended by adding section 45-117, to read:

17 45-117. Water resources fund; purpose; monies held in trust

18 A. THE WATER RESOURCES FUND IS ESTABLISHED TO BE MAINTAINED IN
19 PERPETUITY CONSISTING OF:

20 1. EXCEPT AS PROVIDED IN SECTION 45-113, SUBSECTION F, MONIES RECEIVED
21 PURSUANT TO SECTIONS 45-113, 45-115, 45-116, 45-183, 45-273, 45-292,
22 45-411.01, 45-467, 45-476.01, 45-595, 45-612, 45-703, 45-871.01, 45-874.01,
23 45-1021, 45-1041, 45-1205, 45-1603 AND 45-1605.

24 2. MONIES APPROPRIATED BY THE LEGISLATURE TO THE WATER RESOURCES FUND.

25 3. GIFTS, GRANTS AND DONATIONS TO THE FUND FROM ANY PUBLIC OR PRIVATE
26 SOURCE.

27 4. INTEREST AND OTHER INCOME RECEIVED FROM INVESTING MONIES IN THE
28 FUND.

29 B. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION.
30 MONIES REMAINING IN THE FUND AT THE END OF THE FISCAL YEAR REMAIN IN THE FUND
31 AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
32 APPROPRIATIONS.

33 C. MONIES IN THE FUND SHALL BE USED EXCLUSIVELY BY THE DEPARTMENT OF
34 WATER RESOURCES TO CARRY OUT THE PURPOSES OF THIS TITLE AND SHALL NOT BE
35 APPROPRIATED FOR ANY OTHER PURPOSE.

36 D. THE DIRECTOR SHALL ADMINISTER THE FUND. ON NOTICE FROM THE
37 DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST THE MONIES IN THE FUND
38 AS PROVIDED BY SECTION 35-313 AND MONIES EARNED FROM INVESTMENT SHALL BE
39 CREDITED TO THE FUND.

40 E. ANY FEE, ASSESSMENT OR OTHER LEVY THAT IS AUTHORIZED BY LAW OR
41 ADMINISTRATIVE RULE AND THAT IS COLLECTED AND DEPOSITED IN THE WATER
42 RESOURCES FUND SHALL BE HELD IN TRUST. THE MONIES IN THE FUND MAY BE USED
43 ONLY FOR THE PURPOSES PRESCRIBED BY STATUTE AND SHALL NOT BE APPROPRIATED OR
44 TRANSFERRED BY THE LEGISLATURE TO FUND THE GENERAL OPERATIONS OF THIS STATE
45 OR TO OTHERWISE MEET THE OBLIGATIONS OF THE GENERAL FUND OF THIS STATE. THIS

1 SUBSECTION DOES NOT APPLY TO ANY TAXES OR OTHER LEVIES THAT ARE IMPOSED
2 PURSUANT TO TITLE 42 OR 43.

3 Sec. 5. Section 45-183, Arizona Revised Statutes, is amended to read:
4 45-183. Contents of statement of claim; filing procedure; fee

5 A. The statement of claim for each water right shall include the
6 following:

7 1. The name and mailing address of the person filing the claim.

8 2. The name of the watercourse or water source from which the right to
9 divert or make use of water is claimed.

10 3. The quantities of water and times of year use is claimed.

11 4. The legal description to the nearest forty-acre tract or by other
12 appropriate description of the point or points of diversion and place of use
13 of the waters.

14 5. The purpose and extent of use.

15 6. The approximate dates of first putting water to beneficial use for
16 the various amounts and times claimed in paragraph 3 of this subsection.

17 7. The legal basis for the claim.

18 8. The sworn statement that the claim set forth is true and correct.

19 B. A statement of claim for a water right may be verified by the
20 person claiming the right or may be verified by an authorized agent of such
21 person.

22 C. Filing of a statement of claim shall be complete upon timely
23 receipt by the ~~appropriate state agency~~ DEPARTMENT of a properly executed
24 statement of claim and a five dollar filing fee for each such claim. THE
25 DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE FEES
26 RECEIVED PURSUANT TO THIS SUBSECTION IN THE WATER RESOURCES FUND ESTABLISHED
27 BY SECTION 45-117.

28 Sec. 6. Section 45-273, Arizona Revised Statutes, is amended to read:

29 45-273. Claim of water right; penalty; fee

30 A. A claim of water right for a stockpond and application for
31 certification of such right shall be typewritten or legibly written in ink
32 and filed in duplicate with the director upon a printed form furnished by the
33 director. Each blank in the form shall be completed with the required
34 information pursuant to instructions furnished by the director.

35 B. A claim which does not contain the required information or which is
36 not accompanied by the required filing fee shall not be accepted, but shall
37 be returned to the sender.

38 C. A separate claim shall be filed for each stockpond.

39 D. All claims shall be certified as true under penalty of perjury.

40 E. Each claim shall be accompanied by a filing fee of ten dollars.

41 F. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
42 ALL FEES RECEIVED PURSUANT TO THIS SECTION IN THE WATER RESOURCES FUND
43 ESTABLISHED BY SECTION 45-117.

1 Sec. 7. Section 45-292, Arizona Revised Statutes, is amended to read:
2 45-292. Approval required to transport water out of state;
3 application; fee; criteria; hearing

4 A. A person may withdraw, or divert, and transport water from this
5 state for a reasonable and beneficial use in another state if approved by the
6 director pursuant to this article. A person shall not transport water from
7 this state unless approved by the director, but this article does not apply
8 to or prohibit transporting water from this state as required by interstate
9 compact, federal law or international treaty.

10 B. An application to transport water from this state for use in
11 another state shall be filed with the director, including a fee established
12 by the director by rule. In establishing a fee by rule, the director may
13 consider factors including the amount of time likely to be expended in
14 processing the application, the amount of preexisting hydrological
15 information available, if any, and the complexity of the application. The
16 application shall include:

17 1. The name and address of the applicant's statutory agent in this
18 state for service of process and other legal notices.

19 2. The legal basis for acquiring the water to be transported.

20 3. The purpose for which the water will be used.

21 4. The annual amount of water in acre-feet for which the application
22 is made.

23 5. The proposed duration of the permit, not to exceed fifty years with
24 an option to renew.

25 6. Studies satisfactory to the director of the probable hydrologic
26 impact on the area from which the water is proposed to be transported.

27 7. Any other information which the director may require.

28 C. The director shall approve or reject the application. If the
29 director approves the application, the director may prescribe terms and
30 conditions for the approval. In determining whether to approve the
31 application the director shall consider:

32 1. Whether the proposed action would be consistent with conservation
33 of water, including any applicable management goals and plans.

34 2. Potential harm to the public welfare of the citizens of this state.

35 3. The supply of water to this state and current and future water
36 demands in this state in general and the proposed source area in particular.

37 4. The feasibility of intrastate transportation of the water that is
38 the subject of the application to alleviate water shortages in this state.

39 5. The availability of alternative sources of water in the other
40 state.

41 6. The demands placed on the applicant's supply in the other state.

42 7. Whether the proposed action is prohibited or affected by other law,
43 including sections 45-165 and 45-172 and chapter 2 of this title.

1 D. This article does not authorize and the director shall not approve
2 transporting from this state water allocated to this state by federal law or
3 interstate compact.

4 E. An administrative hearing shall be held on the application, and the
5 director shall give notice of the hearing by publication once a week for
6 three consecutive weeks in a newspaper of general circulation in the county
7 or counties from which the applicant proposes to transport the water. The
8 hearing shall be conducted in the area from which water is proposed to be
9 transported. Any interested person, including the department, may appear and
10 give oral or written testimony on all issues involved.

11 F. Section 45-114, subsections A and B govern administrative
12 proceedings, rehearing or review and judicial review of final decisions of
13 the director under this section.

14 G. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
15 ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED
16 BY SECTION 45-117.

17 Sec. 8. Section 45-411.01, Arizona Revised Statutes, is amended to
18 read:

19 45-411.01. Exemptions from irrigation water duties,
20 conservation requirements for distribution of
21 groundwater and portions of groundwater withdrawal
22 fee for portions of Phoenix active management
23 area; fee; review

24 A. Each person who is entitled to use groundwater pursuant to an
25 irrigation grandfathered right under article 5 of this chapter on irrigation
26 acres located within the area delineated for exemption under subsection E of
27 this section is exempt, beginning January 1, 1989, from any irrigation water
28 duties or intermediate water duties established or required to be established
29 for those irrigation acres in the management plans for the first, second,
30 third and fourth management periods for the Phoenix active management area
31 adopted pursuant to article 9 of this chapter.

32 B. The Arlington canal company, the Buckeye water conservation and
33 drainage district and the St. John's irrigation district, or their
34 successors, are exempt, beginning January 1, 1989, from any applicable
35 conservation requirements for the distribution of groundwater established in
36 the management plans for the first, second, third and fourth management
37 periods for the Phoenix active management area adopted pursuant to article 9
38 of this chapter.

39 C. No groundwater withdrawal fee shall be levied or collected pursuant
40 to section 45-611 and no water quality assurance fee shall be levied or
41 collected pursuant to section 45-616 for:

42 1. Groundwater withdrawn during calendar years 1989 through 2019 for
43 irrigation use on irrigation acres within the area exempted from irrigation
44 water duties and intermediate water duties under subsection A of this
45 section.

1 2. Groundwater withdrawn and used in the area delineated for exemption
2 under subsection E of this section during calendar years 1999 through 2019
3 for a non-irrigation use pursuant to section 45-519, subsection B, if the
4 user of the groundwater pays a fee of five hundred dollars to the director by
5 March 31 of each year following a year in which the groundwater was used.
6 The director shall deposit, pursuant to sections 35-146 and 35-147, the
7 monies collected under this paragraph in the water quality assurance
8 revolving fund established by section 49-282.

9 D. Except as provided in subsection G of this section, a water duty
10 exemption fee of twenty-five cents per irrigation acre per year shall be paid
11 to the department for each irrigation acre in the exempted area. The water
12 duty exemption fee shall be paid to the department no later than March 31 of
13 each year from 1990 through 2020 for the preceding year by each person who
14 owns irrigation acres within the exempted area as of December 31 of the year
15 preceding the date the payment is due except that, if the Arlington canal
16 company, the Buckeye water conservation and drainage district or the St.
17 John's irrigation district, or a successor, delivers water to the irrigation
18 acres during the year preceding the date payment is due, the fee shall be
19 paid by the company or district delivering water to the irrigation acres. If
20 a person who is required to pay a fee pursuant to this subsection fails to
21 pay the fee for the calendar year in question on or before March 31 of the
22 following year, the director may assess and collect a penalty of ten per cent
23 of the unpaid fee, without compounding, for each month or portion of a month
24 that the fee is delinquent. The total penalty assessed under this subsection
25 shall not exceed sixty per cent of the unpaid fee. The director shall
26 deposit, pursuant to sections 35-146 and 35-147, all monies collected by the
27 department under this subsection in the ~~state-general-fund~~ WATER RESOURCES
28 FUND ESTABLISHED BY SECTION 45-117.

29 E. The boundaries of the exempted area under this section are
30 delineated on a map of the Phoenix active management area filed in the office
31 of the secretary of state on May 12, 1988. A true copy of the map filed in
32 the office of the secretary of state shall be on file in the department and
33 shall be available for examination by the public during regular business
34 hours.

35 F. The director shall review the hydrologic conditions within the area
36 delineated on the map filed in the office of the secretary of state pursuant
37 to subsection E of this section. The director shall consult with
38 representatives of the Arlington canal company, the Buckeye water
39 conservation and drainage district and the St. John's irrigation district, or
40 their successors, on the scope of the review before beginning the review and
41 on the status of the review periodically during the course of the review.
42 The director shall submit a recommendation to the governor, the president of
43 the senate and the speaker of the house of representatives no later than
44 December 15, 2015 regarding extending the exemptions established in this
45 section.

1 G. A person who owns an irrigation grandfathered right appurtenant to
2 ten or fewer irrigation acres located in the exempt area is exempt from the
3 payment of a water duty exemption fee for the acres prescribed by subsection
4 D of this section unless the irrigation acres are part of an integrated
5 farming operation. The exemption provided by this subsection does not apply
6 to the Arlington canal company, the Buckeye water conservation and drainage
7 district or the St. John's irrigation district, or any successor, in any year
8 in which the company or district delivers water to the irrigation acres.

9 Sec. 9. Section 45-467, Arizona Revised Statutes, is amended to read:

10 45-467. Withdrawals in excess of irrigation grandfathered
11 right; withdrawals less than irrigation grandfathered
12 right; flexibility account; conveyances; variance;
13 exemption

14 A. A person who is entitled to use groundwater pursuant to an
15 irrigation grandfathered right may:

16 1. In an active management area other than the Santa Cruz active
17 management area, use groundwater in excess of the amount allowed by the right
18 in an amount determined pursuant to subsection I of this section.

19 2. In the Santa Cruz active management area, use water, other than
20 stored water, withdrawn from a well in excess of the farm's current
21 irrigation water duty multiplied by the farm's water duty acres in an amount
22 determined pursuant to subsection J of this section.

23 3. Use less than the amount allowed by the right in one accounting
24 period and use the remaining amount allowed by the right in a succeeding
25 accounting period or periods.

26 B. The director shall establish rules for the maintenance of a
27 flexibility account for each farm in an active management area.

28 C. If a farm located in an active management area other than the Santa
29 Cruz active management area is irrigated solely with groundwater, the
30 director shall:

31 1. Register a debit to the account in any accounting period in which
32 the amount of groundwater used for the irrigation of the irrigation acres in
33 the farm is greater than the current irrigation water duty for the farm
34 multiplied by the water duty acres in the farm.

35 2. Register a credit to the account in any accounting period in which
36 the amount of groundwater used for the irrigation of the irrigation acres in
37 the farm is less than the current irrigation water duty for the farm
38 multiplied by the water duty acres in the farm.

39 D. Except as provided in subsection G of this section, if a farm
40 located in an active management area other than the Santa Cruz active
41 management area is irrigated with a combination of surface water or effluent,
42 or both, and groundwater, and uses of water by the farm from all sources for
43 irrigation purposes, except for surface water, other than Colorado river
44 water, released for beneficial use from storage, diversion or distribution
45 facilities to avoid spilling that would otherwise occur due to uncontrolled

1 surface water inflows that exceed facility capacity, in the accounting
2 period:

3 1. Exceed the amount of the current irrigation water duty for the farm
4 multiplied by the water duty acres in the farm, the amount of groundwater
5 used up to the amount of the excess, less any effluent used, shall be
6 registered as a debit to the account.

7 2. Are less than the amount of the current irrigation water duty for
8 the farm multiplied by the water duty acres in the farm, the amount of water
9 not used which would have been groundwater shall be registered as a credit to
10 the account.

11 E. If a farm located in the Santa Cruz active management area is
12 irrigated solely with water, other than stored water, withdrawn from a well,
13 the director shall:

14 1. Register a debit to the account in any accounting period in which
15 the amount of water, other than stored water, withdrawn from a well and used
16 for the irrigation of the irrigation acres in the farm is greater than the
17 current irrigation water duty for the farm multiplied by the water duty acres
18 in the farm. The amount of the debit shall equal the amount of the excess.

19 2. Register a credit to the account in any accounting period in which
20 the amount of water, other than stored water, withdrawn from a well and used
21 for the irrigation of the irrigation acres in the farm is less than the
22 current irrigation water duty for the farm multiplied by the water duty acres
23 in the farm.

24 F. If a farm located in the Santa Cruz active management area is
25 irrigated with a combination of surface water not withdrawn from a well and
26 effluent, or both, and water, other than stored water, withdrawn from a well,
27 and uses of water by the farm from all sources for irrigation purposes in the
28 accounting period:

29 1. Exceed the amount of the current irrigation water duty for the farm
30 multiplied by the water duty acres in the farm, the amount of water, other
31 than stored water, withdrawn from a well and used on the farm up to the
32 amount of the excess, less any effluent used that does not qualify as stored
33 water, shall be registered as a debit to the account.

34 2. Are less than the amount of the current irrigation water duty for
35 the farm multiplied by the water duty acres in the farm, the amount of water
36 not used which would have been water, other than stored water, withdrawn from
37 a well shall be registered as a credit to the account.

38 G. Beginning January 1, 1995 through December 31, 1999, if a farm that
39 qualifies under this subsection as determined pursuant to subsection H of
40 this section is irrigated during an accounting period with a combination of
41 surface water or effluent, or both, and groundwater, and uses of water by the
42 farm from all sources for irrigation purposes, except for surface water,
43 other than Colorado river water, released for beneficial use from storage,
44 diversion or distribution facilities to avoid spilling that would otherwise

1 occur due to uncontrolled surface water inflows that exceed facility
2 capacity, in the accounting period:

3 1. Exceed the amount of the first intermediate irrigation water duty
4 established for the farm pursuant to section 45-565 multiplied by the water
5 duty acres in the farm, the amount of groundwater used up to the amount of
6 the excess, less any effluent used, shall be registered as a debit to the
7 account.

8 2. Are less than the amount of the current irrigation water duty for
9 the farm multiplied by the water duty acres in the farm, the amount of water
10 not used that would have been groundwater shall be registered as a credit to
11 the account.

12 3. Exceed or equal the amount of the current irrigation water duty for
13 the farm multiplied by the water duty acres in the farm but are less than or
14 equal to the amount of the first intermediate irrigation water duty
15 established for the farm pursuant to section 45-565 multiplied by the water
16 duty acres in the farm, no credit or debit may be registered to the account.

17 H. A farm qualifies under subsection G of this section if it is
18 located in an active management area other than the Santa Cruz active
19 management area and either of the following applies:

20 1. The amount of groundwater used to irrigate the farm during the
21 accounting period does not exceed an amount computed by multiplying the water
22 duty acres in the farm by one and one-half acre-feet of water, except that an
23 electrical district organized under title 48, chapter 12 or an irrigation
24 district may apply to the director no later than March 31 of a year for an
25 increase in that amount for that year for the farms located within the
26 boundaries of the district that do not qualify under paragraph 2 of this
27 subsection. The director shall grant the increase if the district
28 demonstrates that it holds a contract for the purchase of hydroelectric power
29 marketed by the western area power administration or the Arizona power
30 authority and that the use of groundwater during that year by all of the
31 farms within the boundaries of the district that do not qualify under
32 paragraph 2 of this subsection in an amount that does not exceed one and
33 one-half acre-feet of water multiplied by the total number of water duty
34 acres of those farms would result in the district being unable to use its
35 hydroelectric power capacity entitlement under the contract. If the director
36 grants the increase, the director shall compute the maximum amount of
37 groundwater that may be used by a farm within the district during the year in
38 order to qualify under subsection G of this section as follows:

39 (a) Determine the total amount of groundwater that must be used during
40 the year by all farms in the district that do not qualify under paragraph 2
41 of this subsection to enable the district to efficiently use its
42 hydroelectric kilowatt demand allocation.

43 (b) Divide the amount determined in subdivision (a) of this paragraph
44 by the total number of water duty acres of the farms in the district that do
45 not qualify under paragraph 2 of this subsection.

1 (c) Multiply the farm's water duty acres by the quotient in
2 subdivision (b) of this paragraph or two acre-feet of water, whichever is
3 less.

4 2. The farm is irrigated with water supplied by an irrigation district
5 that owns or leases and operates all of the wells used to withdraw
6 groundwater for irrigation use within the district, and the total amount of
7 groundwater supplied by the irrigation district for irrigation use during the
8 year does not exceed an amount computed by multiplying the total number of
9 water duty acres within the irrigation district by one and one-half acre-feet
10 of water, except that the irrigation district or an electrical district
11 organized under title 48, chapter 12 may apply to the director no later than
12 March 31 of a year for an increase in that amount for that year for the farms
13 located within the boundaries of the irrigation district. The director shall
14 grant the increase if the irrigation district or electrical district
15 demonstrates that it holds a contract for the purchase of hydroelectric power
16 marketed by the western area power administration or the Arizona power
17 authority and that the irrigation district or electrical district would be
18 unable to use its hydroelectric power capacity entitlement under the contract
19 if the total amount of groundwater supplied by the irrigation district for
20 irrigation use during the year does not exceed an amount computed by
21 multiplying the total number of water duty acres within the irrigation
22 district by one and one-half acre-feet of water. If the director grants the
23 increase, the maximum amount of groundwater that may be supplied by the
24 irrigation district for irrigation use during the year in order for the farms
25 located within the boundaries of the irrigation district to qualify under
26 subsection G of this section shall be the lesser of the following:

27 (a) The amount of groundwater that the director determines must be
28 supplied by the irrigation district for irrigation use during the year to
29 enable the irrigation district or electrical district to efficiently use its
30 hydroelectric kilowatt demand allocation.

31 (b) An amount of groundwater computed by multiplying the total number
32 of water duty acres within the irrigation district by two acre-feet of water.

33 I. The maximum excess amount of groundwater that may be used pursuant
34 to this section is equal to fifty per cent of the current irrigation water
35 duty for the farm multiplied by the water duty acres in the farm. An owner
36 of an irrigation grandfathered right and the person using groundwater
37 pursuant to the right violate this section if the flexibility account for the
38 farm in which the irrigation acres to which the right is appurtenant are
39 located is in arrears at any time in excess of this amount. Groundwater
40 equal to the credit balance in the flexibility account may be used at any
41 time.

42 J. In the Santa Cruz active management area, the maximum excess amount
43 of water, other than stored water, withdrawn from a well that may be used
44 pursuant to this section is equal to fifty per cent of the current irrigation
45 water duty for the farm multiplied by the water duty acres in the farm. A

1 person using water, other than stored water, withdrawn from a well for an
2 irrigation use in the Santa Cruz active management area violates this section
3 if the flexibility account for the farm is in arrears at any time in excess
4 of this amount. Water, other than stored water, withdrawn from a well in an
5 amount equal to the credit balance in the flexibility account may be used at
6 any time, except that if the water is surface water, the amount that may be
7 used shall not exceed the amount allowed by the decreed or appropriative
8 surface water right.

9 K. If an irrigation grandfathered right is conveyed for an irrigation
10 use pursuant to section 45-472, each acre conveyed shall carry with it a
11 proportional share of any debits or credits in the flexibility account for
12 the farm. If an irrigation grandfathered right is conveyed for a
13 non-irrigation use pursuant to section 45-472, each acre conveyed shall carry
14 with it a proportional share of any debits in the flexibility account for the
15 farm.

16 L. A person in an active management area other than the Santa Cruz
17 active management area who is using groundwater pursuant to an irrigation
18 grandfathered right and who is operating under a variance to the irrigation
19 water duty pursuant to section 45-574:

20 1. May accumulate a maximum debit in an amount equal to fifty per cent
21 of the current irrigation water duty for the farm multiplied by the water
22 duty acres in the farm.

23 2. Shall accumulate credits pursuant to subsection C or D of this
24 section.

25 M. A person in the Santa Cruz active management area who is using
26 water, other than stored water, withdrawn from a well for an irrigation use
27 and who is operating under a variance to the irrigation water duty pursuant
28 to section 45-574:

29 1. May accumulate a maximum debit in an amount equal to fifty per cent
30 of the current irrigation water duty for the farm multiplied by the water
31 duty acres in the farm.

32 2. Shall accumulate credits pursuant to subsection E or F of this
33 section.

34 N. In an active management area other than the Santa Cruz active
35 management area, a person using groundwater pursuant to an irrigation
36 grandfathered right shall file a report with the director each year which
37 shall include the amount of groundwater used pursuant to the irrigation
38 grandfathered right and such other information as the director shall require.
39 In the Santa Cruz active management area, a person using water, other than
40 stored water, withdrawn from a well for irrigation use shall file a report
41 with the director each year which shall include the amount of water used on
42 the farm and such other information as the director shall require. The
43 director may consolidate the reporting requirements of this section with the
44 reporting requirements of section 45-632. A person using groundwater
45 pursuant to an irrigation grandfathered right that is regulated under a best

1 management practices program adopted by the director, pursuant to section
2 45-566.02, subsection F, section 45-567.02, subsection ~~F~~ G or section
3 45-568.02, subsection F, is exempt from the reporting requirements of this
4 subsection for groundwater used pursuant to the irrigation grandfathered
5 right, except that the person shall file a report with the director each year
6 that includes the information required by the best management practices
7 program. A person using groundwater pursuant to an irrigation grandfathered
8 right that is appurtenant to ten or fewer irrigation acres is exempt from the
9 reporting requirements of this subsection for groundwater used pursuant to
10 the irrigation grandfathered right unless one of the following applies:

11 1. The land to which the irrigation grandfathered right is appurtenant
12 is part of an integrated farming operation.

13 2. Groundwater is withdrawn from the land to which the irrigation
14 grandfathered right is appurtenant and delivered for use pursuant to either a
15 service area right pursuant to article 6 of this chapter or a grandfathered
16 groundwater right other than an irrigation grandfathered right that is
17 appurtenant to irrigation acres that are exempt from irrigation water duties
18 pursuant to section 45-563.02.

19 3. Groundwater is withdrawn from land that is both owned by the owner
20 of the irrigation grandfathered right and contiguous to the land to which the
21 irrigation grandfathered right is appurtenant and delivered for use pursuant
22 to either a service area right pursuant to article 6 of this chapter or a
23 grandfathered groundwater right other than an irrigation grandfathered right
24 that is appurtenant to irrigation acres that are exempt from irrigation water
25 duties pursuant to section 45-563.02.

26 0. A person who owns an irrigation grandfathered right that is
27 appurtenant to irrigation acres that were capable of being irrigated as of
28 December 31 of the preceding calendar year and whose farm has registered a
29 credit balance to its flexibility account may convey or sell all or a portion
30 of the credit balance to any person, including the conveyor or seller of the
31 credit balance, who owns another irrigation grandfathered right or who uses
32 groundwater pursuant to another irrigation grandfathered right, except that:

33 1. A credit balance that is registered to the flexibility account of a
34 farm located within an irrigation district may be transferred only to:

35 (a) The flexibility account of a farm that is located within the same
36 irrigation district.

37 (b) The flexibility account of a farm that is located outside of that
38 irrigation district if both farms are located in the same groundwater
39 subbasin and the same active management area and if the farm to which the
40 credits are conveyed is owned or leased by the owner or lessee of the farm
41 from which the credits are conveyed.

42 2. A credit balance that is registered to the flexibility account of a
43 farm that is not located within an irrigation district may be transferred
44 only to:

1 (a) The flexibility account of a farm that is located within the same
2 groundwater subbasin and the same active management area and that is not
3 located within an irrigation district.

4 (b) The flexibility account of a farm that is located within the same
5 groundwater subbasin and the same active management area and that is located
6 within an irrigation district if the farm to which the credits are conveyed
7 is owned or leased by the owner or lessee of the farm from which the credits
8 are conveyed.

9 3. A credit registered to a flexibility account for a year may be
10 conveyed or sold only during the second calendar year following the year for
11 which the credit was registered.

12 4. A person who owns a farm that includes protected farmland may not
13 sell or otherwise convey any credit registered to the farm's flexibility
14 account.

15 P. A person who sells or conveys all or a portion of a credit balance
16 pursuant to subsection O of this section, and the person to whom the credit
17 balance is sold or conveyed, shall notify the director of the sale or
18 conveyance within thirty days after the sale or conveyance on a form
19 prescribed and furnished by the director.

20 Q. The director shall establish and collect a reasonable fee from the
21 conveyee or purchaser of a credit balance pursuant to subsection O of this
22 section to cover the cost of administrative services and other expenses
23 associated with registering a deduction to the conveyor's or seller's
24 flexibility account balance and an addition to the conveyee's or purchaser's
25 flexibility account balance pursuant to subsection R of this section. The
26 conveyee or purchaser shall pay the fee at the time the notice required
27 pursuant to subsection P of this section is given to the director. THE
28 DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES
29 RECEIVED UNDER THIS SUBSECTION IN THE WATER RESOURCES FUND ESTABLISHED BY
30 SECTION 45-117.

31 R. A sale or conveyance of all or part of a credit balance under
32 subsection O of this section is effective only if the director receives the
33 notice required by subsection P of this section and the fee required by
34 subsection Q of this section within thirty days after the sale or conveyance.
35 After receiving the notice and the fee, the director shall register a
36 deduction of the credit amount conveyed or sold from the conveyor's or
37 seller's flexibility account balance and the corresponding addition to the
38 conveyee's or purchaser's flexibility account balance. The deduction and
39 addition to the flexibility account balances are effective as of the date of
40 the sale or conveyance.

41 S. The director shall report to the president of the senate and the
42 speaker of the house of representatives no later than June 30, 2002 on the
43 effect of conveyances of flexibility account credit balances pursuant to
44 subsection O, paragraph 2 of this section on the achievement of the
45 management goal of each active management area as stated in section 45-562

1 and on the conservation program included in the management plan for each
2 active management area as provided in section 45-565, and any recommended
3 changes to subsection O, paragraph 2 of this section.

4 T. Except for subsection N of this section, this section does not
5 apply to:

6 1. A farm if the person entitled to use groundwater on the farm is
7 exempt from the irrigation water duties established for the farm as provided
8 in section 45-563.02, subsection A or if the director may not establish
9 irrigation water duties for the farm as provided in section 45-563.02,
10 subsection B.

11 2. A farm if water use within the farm is regulated under a best
12 management practices program adopted by the director pursuant to section
13 45-566.02, subsection F, section 45-567.02, subsection F- G or section
14 45-568.02, subsection F.

15 Sec. 10. Section 45-476.01, Arizona Revised Statutes, is amended to
16 read:

17 45-476.01. Late applications for certificates of grandfathered
18 rights; definition

19 A. A person who claims the right to withdraw or receive and use
20 groundwater in an initial active management area pursuant to a grandfathered
21 right and who failed to file an application on or before July 1, 1983 as
22 required by law may file a late application for a certificate of
23 grandfathered right pursuant to this section on a form provided by the
24 department.

25 B. A late application for a certificate of grandfathered right shall
26 include the information required in section 45-476. The fee for filing a
27 late application is one hundred dollars. THE DIRECTOR SHALL DEPOSIT,
28 PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS
29 SUBSECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

30 C. The director shall review each late application for a certificate
31 of grandfathered right submitted pursuant to this section and may conduct
32 such investigations as the director deems necessary to determine whether the
33 information contained in the application is correct and sufficient to issue a
34 certificate.

35 D. A person who files a late application for a certificate of
36 grandfathered right pursuant to this section has the burden of establishing
37 by clear and convincing evidence that the necessary statutory requirements
38 for issuing the certificate of grandfathered right have been met.

39 E. The director's decision on a late application for a certificate of
40 grandfathered right submitted pursuant to this section, is subject to
41 administrative review. A person aggrieved by the director's decision is not
42 entitled to an administrative hearing. A final decision of the director
43 approving or denying the application is not subject to judicial review.

44 F. If the director, after reviewing a late application, determines
45 that the statutory requirements for issuing the certificate of grandfathered

1 right have been met, the director shall issue a certificate of grandfathered
2 right to the applicant pursuant to section 45-481. A holder of a certificate
3 of grandfathered right issued pursuant to this section has the same rights
4 and duties as all other holders of certificates of grandfathered rights.

5 G. Notwithstanding section 41-1092.02, subsection D, this section is
6 not subject to title 41, chapter 6, article 10.

7 H. For THE purposes of this article, "late application for a
8 certificate of grandfathered right" means an application that is filed after
9 July 1, 1983 for a certificate of grandfathered right to withdraw or receive
10 and use groundwater in an initial active management area.

11 Sec. 11. Section 45-595, Arizona Revised Statutes, is amended to read:

12 45-595. Well construction requirements; licensing of well
13 drillers

14 A. New well construction, including modifications of wells, shall be
15 performed under the direct and personal supervision of a well driller who
16 holds a well driller's license pursuant to subsection B OF THIS SECTION.

17 B. A person who intends to construct or modify one or more wells in
18 this state shall file an application for a well driller's license with the
19 director. The application shall include:

- 20 1. The name, mailing address and place of business of the applicant.
- 21 2. The applicant's experience and qualifications.
- 22 3. Such other information as the director may require.

23 C. The director ~~shall~~, by rule or ~~regulation~~, SHALL establish
24 qualifications and a reasonable fee of not more than fifty dollars for
25 licenses for well drillers and establish procedures for the evaluation and
26 licensing of applicants. A nontransferable well driller's license shall be
27 issued if the director finds that the applicant meets the qualifications
28 established pursuant to this subsection. The director may revoke a well
29 driller's license for good cause.

30 D. A person who drills or modifies an exempt well on land owned by
31 that person shall first obtain a single well license from the department. The
32 department shall issue the license to drill the well according to standard
33 small well construction standards. No fee may be charged for a single well
34 license.

35 E. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
36 ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED
37 BY SECTION 45-117.

38 Sec. 12. Section 45-612, Arizona Revised Statutes, is amended to read:

39 45-612. Administration and enforcement withdrawal fee;
40 exemption from lapsing; disposition of excess monies

41 A. Each year the legislature shall appropriate sufficient monies to
42 the department to cover all costs of administration and enforcement of this
43 chapter.

44 B. Not later than October 1 of each year, the director shall estimate
45 the total amount of groundwater to be withdrawn in all active management

1 areas except the Tucson, Phoenix, Pinal and Santa Cruz active management
2 areas during the following calendar year and the total amount of water, other
3 than stored water, to be withdrawn in the Santa Cruz active management area
4 during the following calendar year, and set the administration and
5 enforcement fee pursuant to section 45-611, subsection A, paragraph 1 to
6 produce an amount equal to one-half of the amount budgeted by the director
7 for administration and enforcement purposes for the following fiscal year.
8 In setting the administration and enforcement fee, the director shall account
9 for excess payments or deficiencies in payments in the past fiscal year.
10 Except as provided in section 45-113, subsection C, monies collected from
11 administration and enforcement fees shall be deposited in the ~~state general~~
12 ~~fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

13 C. For the Tucson, Phoenix and Pinal active management areas, not
14 later than October 1, 2016 and by October 1 of each year thereafter, the
15 director shall estimate the total amount of groundwater to be withdrawn in
16 each active management area and shall set the administration and enforcement
17 fee pursuant to section 45-611, subsection C, paragraph 1 to produce an
18 amount equal to one-half of the amount budgeted by the director for
19 administration and enforcement purposes for the following fiscal year. In
20 setting the administration and enforcement fee, the director shall account
21 for excess payments or deficiencies in payments in the past fiscal year.
22 Except as provided in section 45-113, subsection C, monies collected from
23 administration and enforcement fees shall be deposited in the ~~state general~~
24 ~~fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

25 D. Monies budgeted for administration and enforcement purposes
26 pursuant to this section are exempt ~~from lapsing under~~ FROM THE PROVISIONS OF
27 section 35-190 RELATING TO LAPSING OF APPROPRIATIONS. If the administration
28 and enforcement fee is set at fifty cents and excess payments have been
29 received, such excess payments shall be credited to the augmentation and
30 conservation assistance fund established under section 45-615 and credited
31 among the active management areas in proportion to the amount of such monies
32 collected from each active management area.

33 Sec. 13. Section 45-703, Arizona Revised Statutes, is amended to read:

34 45-703. Application for certificate of groundwater oversupply;
35 fee

36 A. The director shall prescribe and furnish an application form for a
37 certificate of groundwater oversupply that includes the following:

- 38 1. The name and mailing address of the district member.
- 39 2. The name of the active management area in which the groundwater
40 will be withdrawn.
- 41 3. The estimated annual quantity of groundwater to be designated as
42 groundwater oversupply.
- 43 4. The locations and well registration numbers of the wells from which
44 the designated groundwater will be withdrawn.
- 45 5. The proposed duration of the certificate.

1 6. Evidence of the district member's right under articles 4 through 7
2 of this chapter to withdraw the groundwater to be designated as groundwater
3 oversupply.

4 7. Evidence that the groundwater to be designated will be withdrawn
5 from an area in the district of localized excess groundwater.

6 8. Evidence that if the district member does not withdraw the
7 groundwater to be designated either of the following could occur in the
8 active management area in which the district is located:

9 (a) The groundwater would be discharged from the district without
10 being used and would not contribute hydrologically to achieving safe-yield.

11 (b) The groundwater would contribute to a waterlogging or drainage
12 problem.

13 9. Any other information the director may reasonably require.

14 B. The director shall establish and collect a reasonable fee from the
15 applicant to cover the cost of administrative services and other expenses
16 associated with evaluating and issuing a certificate of groundwater
17 oversupply. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
18 35-147, ALL FEES RECEIVED UNDER THIS SUBSECTION IN THE WATER RESOURCES FUND
19 ESTABLISHED BY SECTION 45-117.

20 Sec. 14. Section 45-871.01, Arizona Revised Statutes, is amended to
21 read:

22 45-871.01. Permit application; fee; notice of application;
23 objections; hearing; appeal

24 A. The director shall prescribe and furnish application forms for the
25 permits prescribed by articles 2 and 3 of this chapter. The application
26 forms shall require the applicant to submit the information needed by the
27 director to determine whether the permit may be issued. The director shall
28 establish and collect a reasonable fee from the applicant to cover the cost
29 of administrative services and other expenses associated with evaluating and
30 issuing each permit. ~~All fees collected pursuant to this subsection shall be~~
31 ~~remitted pursuant to section 45-615, paragraph 1.~~ THE DIRECTOR SHALL DEPOSIT,
32 PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS
33 SUBSECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

34 B. On receipt of an application for a permit pursuant to this chapter,
35 the director shall endorse on the application the date of its receipt and
36 shall keep a record of the application. Within fifteen days after receipt of
37 an application for an underground storage facility permit, the director shall
38 post notice of the application on the department's website until the director
39 issues a decision on the application. The notice shall state the name of the
40 applicant, the location of the proposed underground storage facility, the
41 date the application was filed and the application number. The notice
42 required by this subsection is in addition to the notice requirement in
43 subsection d of this section. The director shall conduct a review of the
44 application within one hundred days of receipt of the application. If the
45 director determines in the review that the application is incomplete or

1 incorrect, the director shall notify the applicant and the review period is
2 extended by fifteen days. The application is incomplete or incorrect until
3 the applicant files the information requested in the application. The
4 director may conduct independent investigations as necessary to determine
5 whether the application should be approved or rejected.

6 C. If the application is for water storage at an underground storage
7 facility that is exempt from the requirement for an aquifer protection permit
8 under section 49-250, subsection B, paragraph 12, 13 or 24, the director of
9 water resources shall consult with the director of environmental quality and
10 shall develop a coordinated and unified permit review process, that conforms
11 to the time schedule prescribed by this section, to determine whether the
12 permit application is correct and whether the development of a plan of action
13 for monitoring and data analysis shall be required.

14 D. Except as provided in subsection E of this section, if the
15 application is determined to be complete and correct and the application is
16 for a storage facility permit or a water storage permit, the director, within
17 fifteen days of that determination or a longer period if requested by the
18 applicant, shall give notice of the application once each week for two
19 consecutive weeks in a newspaper of general circulation in the county or
20 counties in which persons reside who could reasonably be expected to be
21 affected by the water storage. The director shall also give notice by first
22 class mail to each city, town, private water company, conservation district,
23 irrigation district and electrical district that serves land within the area
24 of impact of the stored water. The notice shall state that persons who may
25 be adversely affected by the water storage may file written objections to the
26 issuance of the permit with the director for fifteen days after the last
27 publication of notice. An objection shall state the name and mailing address
28 of the objector, shall be signed by the objector or the objector's agent or
29 attorney and shall clearly set forth the reasons why the permit should not be
30 issued. The grounds for objection are limited to whether the application
31 meets the criteria for issuing the permit being requested as prescribed by
32 articles 2 and 3 of this chapter.

33 E. If the application is determined to be complete and correct and the
34 application is for a water storage permit to store Colorado river water at a
35 storage facility where storage of Colorado river water has previously been
36 permitted, the director may issue the permit within twenty days of that
37 determination if all of the following apply:

38 1. The holder of the storage facility permit with which the water
39 storage permit will be affiliated has consented to the water storage.

40 2. The water storage permit will not require a modification of an
41 affiliated water storage facility permit.

42 3. Colorado river water will be the only type of water stored under
43 the water storage permit.

44 4. The applicant has the right to use the Colorado river water.

1 F. Except as provided in section 45-834.01, subsection D, if the
2 application is determined to be complete and correct and the application is
3 for a recovery well permit, the director, within fifteen days of the
4 determination or a longer period if requested by the applicant, shall give
5 notice of the application once each week for two consecutive weeks in a
6 newspaper of general circulation in the county in which the applicant
7 proposes to recover stored water. If the application is for a well located
8 inside of or within three miles of the exterior boundaries of the service
9 area of a city, town, private water company or irrigation district, the
10 applicant shall give notice of the application by first class mail to each
11 city, town, private water company or irrigation district within that
12 distance. The applicant shall file proof of the notice with the director.
13 The notice shall state that persons who may be adversely affected by the
14 recovery well may file written objections to the issuance of the permit with
15 the director for fifteen days after the last publication of notice. An
16 objection shall state the name and mailing address of the objector, shall be
17 signed by the objector or the objector's agent or attorney and shall clearly
18 set forth reasons why the permit should not be issued. The grounds for
19 objection are limited to whether the application meets the criteria for
20 issuing a recovery well permit as set forth in section 45-834.01,
21 subsection B. For the purposes of this subsection, if the proposed recovery
22 well is located within three miles outside of the exterior boundaries of the
23 service area of a city, town, private water company or irrigation district, a
24 city, town, private water company or irrigation district within that distance
25 shall be considered a person who may be adversely affected by the recovery
26 well.

27 G. In appropriate cases, including cases in which a proper objection
28 to the permit application has been filed, an administrative hearing may be
29 held before the director's decision on the application if the director deems
30 a hearing necessary. At least thirty days before the hearing, the director
31 shall notify the applicant and any person who filed a proper objection to the
32 issuance of the permit. The hearing shall be scheduled for at least sixty
33 days but not more than ninety days after the expiration of the time in which
34 to file objections.

35 H. If a hearing is not held, the director shall issue a decision and
36 order within six months of the date notice of the application is first given
37 pursuant to subsection D or F of this section, or within ninety days in the
38 case of an application under article 6 of this chapter. The director shall
39 record and endorse the approval or rejection of the application on the
40 application. If the permit is denied, the director shall return a copy of
41 the application to the applicant specifically stating the reasons for denial.

42 I. The applicant or any person who filed a proper objection to the
43 application may seek judicial review of the final decision of the director as
44 provided in section 45-114, subsection B in superior court as provided in
45 section 45-405.

1 J. Section 45-114, subsections A and B govern administrative
2 proceedings, rehearings or review and judicial review of final decisions of
3 the director under this section. If an administrative hearing is held, it
4 shall be conducted in the active management area in which the storage or
5 recovery is located.

6 K. On receipt of an application for a permit pursuant to this section,
7 the director shall provide written notice of the proposed permit to the city,
8 town or county that has land use jurisdiction over the site that is the
9 subject of the permit. The notice shall be given at the same time and in the
10 same manner as the notices prescribed by subsections D and F of this section
11 in order to provide the city, town or county with the opportunity to comment
12 on the proposed facility's or well's compliance with site planning and
13 operational requirements of the city, town or county. This subsection shall
14 not be construed to limit the exclusive authority of the director to
15 determine the issuance of the permit or the site of the facility or well or
16 to reduce the authority of the city, town or county to enforce its applicable
17 ordinances governing site planning and operational requirements.

18 Sec. 15. Section 45-874.01, Arizona Revised Statutes, is amended to
19 read:

20 45-874.01. Long-term storage credit recovery fee: amount;
21 notice; payment; penalty

22 A. The director shall levy and collect a long-term storage credit
23 recovery fee from each person who recovers long-term storage credits pursuant
24 to a recovery well permit issued under section 45-834.01. The amount of the
25 long-term storage credit recovery fee is equal to the amount of the
26 groundwater withdrawal fee levied for administration and enforcement of
27 chapter 2 of this title pursuant to section 45-611, subsection A,
28 paragraph 1.

29 B. Not later than October 1 of each year the director shall file in
30 the department an order setting the long-term storage credit recovery fee for
31 the following calendar year.

32 C. Within thirty days after the director sets the long-term storage
33 credit recovery fee for the following calendar year, the director shall give
34 written notice of the fee to all holders of recovery well permits issued
35 under this chapter.

36 D. A person shall pay the long-term storage credit recovery fee to the
37 department at the time the person holding a recovery well permit files an
38 annual report pursuant to section 45-875.01. If a person who is required to
39 pay a long-term storage credit recovery fee fails to pay the fee when due,
40 the director may assess and collect a penalty of ten per cent of the unpaid
41 fee, without compounding, for each month or portion of a month that the fee
42 is delinquent. The total penalty assessed under this subsection shall not
43 exceed sixty per cent of the unpaid fee.

44 E. The director shall deposit, pursuant to sections 35-146 and 35-147,
45 all monies collected pursuant to SUBSECTION A OF this section in the state

1 ~~general fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117 AND ALL
2 MONIES COLLECTED PURSUANT TO SUBSECTION D OF THIS SECTION IN THE STATE
3 GENERAL FUND.

4 Sec. 16. Section 45-1021, Arizona Revised Statutes, is amended to
5 read:

6 45-1021. Enrollment of water exchange contracts; fee

7 A. A water exchange contract may be enrolled by any party to the
8 contract by filing a statement of water exchange contract with the director
9 and complying with all of the following requirements:

10 1. The water exchange contract was in effect before January 1, 1992
11 and, if originally oral, is reduced to writing before December 31, 1994.

12 2. A water exchange actually was made after January 1, 1982 pursuant
13 to the contract unless the water to be exchanged by one of the parties is
14 central Arizona project water for which a subcontract was not offered by the
15 secretary of the interior by January 1, 1992.

16 3. Each statement of water exchange contract is filed on a separate
17 prescribed form not later than December 31, 1994.

18 4. Each statement of water exchange contract includes a description of
19 the legal basis for acquiring and using the water subject to the water
20 exchange.

21 5. If the water exchange involves water pumped from wells, each
22 statement of water exchange contract includes the well registration numbers
23 of the wells pumping water pursuant to the exchange.

24 6. A copy of the water exchange contract is attached to the statement
25 of water exchange contract.

26 7. Each blank in the prescribed form is completed legibly with the
27 required information pursuant to instructions furnished by the director.

28 8. The statement of water exchange contract is certified as true under
29 penalty of perjury.

30 9. The prescribed form is accompanied by a filing fee in an amount to
31 be determined by rule by the director to cover the cost of administering this
32 article.

33 B. The director shall not accept a statement of water exchange
34 contract that does not meet all of the requirements of subsection A OF THIS
35 SECTION. If the director determines that a statement of water exchange
36 contract fails to meet these requirements, the director shall return it to
37 the sender within ninety days specifying the deficiencies in the statement
38 and providing the sender with sixty days within which to revise or supplement
39 the statement in order to meet the requirements. The director may reject a
40 revised or supplemented statement if, on resubmittal, it is still deficient.
41 In such case, the director shall provide the sender an additional sixty days
42 in which to further revise or supplement the statement. The director shall
43 not accept a revised or supplemented statement of water exchange contract
44 after June 30, 1995.

1 C. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
2 ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED
3 BY SECTION 45-117.

4 Sec. 17. Section 45-1041, Arizona Revised Statutes, is amended to
5 read:

6 45-1041. Water exchange permits; fee

7 A. A person who seeks to give surface water, other than Colorado river
8 water, in a water exchange to which neither section 45-1002, subsection A,
9 paragraph 1 nor 3 applies shall apply to the director for a water exchange
10 permit. The director shall issue either a specific use water exchange permit
11 or a general use water exchange permit, as applicable, if the applicant
12 demonstrates that all of the following apply:

13 1. The water exchange will be made pursuant to a written contract.

14 2. The water exchange will not affect vested rights to water.

15 3. Each party to the water exchange contract has a right to the water
16 the party will give in the water exchange.

17 4. If an applicant is not a city, town, private water company or
18 irrigation district, any new or increased pumping by the applicant from a
19 well within an active management area pursuant to the water exchange will not
20 unreasonably increase damage to surrounding land or other water users.

21 5. If an applicant is a city, town, private water company or
22 irrigation district with a service area located partly or wholly in an active
23 management area, any new or increased pumping by the applicant within the
24 applicant's service area pursuant to the water exchange is consistent with
25 the management plan and achievement of the management goal for the active
26 management area.

27 6. Each party to a water exchange contract either:

28 (a) Receives at least ninety per cent of the quantity of water that
29 the other party gives in the water exchange.

30 (b) Receives at least fifty per cent of the quantity of water that the
31 other party gives in the water exchange, unless otherwise authorized by law,
32 and the director determines the water exchange is beneficial to water
33 management in this state.

34 B. Subsection A of this section does not apply to the proposed
35 modification of a previously enrolled or permitted water exchange contract
36 that involves surface water other than Colorado river water, if the proposed
37 modification meets both of the following conditions:

38 1. The proposed modification involves the addition of one or more of
39 the following water sources as the only new or additional water source of
40 exchange:

41 (a) Colorado river water.

42 (b) Groundwater.

43 (c) Effluent.

44 (d) Surface water that is captured in the additional storage capacity
45 created by modified Roosevelt dam after April 9, 1986.

2. Notice of the proposed modification is filed by the person seeking the modification pursuant to section 45-1051 and is subject to the requirements of that section and the conditions prescribed by section 45-1052.

C. Any person may apply for a specific use water exchange permit. A specific use permit allows the parties to exchange specific sources of water in specific quantities for the uses and in the locations specified in the permit.

D. Two or more political subdivisions of this state, or one or more political subdivisions and one or more private water companies, Indian communities, agencies of this state or agencies of the United States may apply for a general use water exchange permit. A general use permit shall specify that the holders may engage in one or more exchanges of water at any time during the term of the permit. The water received pursuant to a general use permit may be used for any lawful purpose specified in the permit. Before making any exchange pursuant to a general use permit, the parties to the permit shall notify the director of the amounts of water to be exchanged and the specific uses to which each source of water will be applied.

E. An application for a water exchange permit shall be accompanied by a filing fee in an amount to be determined by rule by the director to cover the cost of administering this article.

F. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 18. Section 45-1205, Arizona Revised Statutes, is amended to read:

45-1205. Charges against irrigation projects: disposition of proceeds

A. Upon all projects for which approval is required by the state certification board, or which involve examination, supervision and inspection by the director, whether in connection with the construction of a dam or otherwise, the following shall be paid:

1. For irrigation projects of any kind involving twenty-five thousand acres or less, an annual tax levy of ten cents per acre shall be levied and collected.

2. For such irrigation projects in excess of twenty-five thousand acres, an annual tax levy of five cents per acre shall be levied and collected.

B. The levy shall be made only in the years required for construction of the project, and shall be made and collected in the same manner as provided for the levy and collection of taxes made for other expenses of the particular district. Such collections shall be deposited, pursuant to sections 35-146 and 35-147, in the ~~state general fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

1 Sec. 19. Section 45-1212.01, Arizona Revised Statutes, is amended to
2 read:

3 45-1212.01. Dam repair fund

4 A. The dam repair fund is established consisting of monies
5 appropriated by the legislature, and monies collected by the director in full
6 or partial satisfaction of a lien created by section 45-1212, subsection D
7 and monies collected pursuant to section 45-1220.

8 B. Monies in the fund shall be used to ~~employ remedial measures~~
9 ~~necessary to protect life and property in accordance with section 45-1212~~
10 CARRY OUT THE PURPOSES OF THIS CHAPTER.

11 C. The director shall annually report to the legislature on the status
12 of the fund and the purposes for which monies were expended during the
13 preceding calendar year. The report shall be submitted pursuant to section
14 41-1178 no later than fifteen days after the commencement of each regular
15 session.

16 D. The director shall administer the fund. On notice from the
17 director, the state treasurer shall invest and divest monies in the fund as
18 provided by section 35-313, and monies earned from investment shall be
19 credited to the fund. Monies in the dam repair fund are exempt from THE
20 PROVISIONS OF section 35-190 relating to lapsing of appropriations.

21 Sec. 20. Section 45-1220, Arizona Revised Statutes, is amended to
22 read:

23 45-1220. Deposit of monies; dam repair fund

24 A. Monies appropriated by the legislature for nonemergency dam repair,
25 dam safety inspection fees collected pursuant to section 45-113, filing fees
26 collected pursuant to section 45-1204 and payments of principal and interest
27 collected by the director pursuant to section 45-1218 shall be deposited in
28 the dam repair fund established by section 45-1212.01.

29 B. Monies in the dam repair fund deposited pursuant to subsection A of
30 this section shall be used for loans and grants as provided in sections
31 45-1218 and 45-1219 TO CARRY OUT THE PURPOSES OF THIS CHAPTER. ~~Upon approval~~
32 ~~of the joint legislative budget committee, such monies may be transferred to~~
33 ~~pay necessary costs of remedial measures as provided in section 45-1212.~~

34 Sec. 21. Section 45-1603, Arizona Revised Statutes, is amended to
35 read:

36 45-1603. Application fee; statement accompanying application

37 A. At the time of applying for the license, the applicant shall pay to
38 the director a fee of one hundred dollars, and shall file an application in
39 the form prescribed by the director and furnish a statement showing:

40 1. The name and address of the applicant.

41 2. The names of the operating personnel, and if unincorporated all
42 individuals connected with the organization, or if a corporation the names of
43 each of the officers and directors thereof, together with the address of
44 each.

1 3. The scientific qualifications of all operating or supervising
2 personnel.

3 4. A statement of all other contracts completed or in process of
4 completion at the time the application is made, giving the names and
5 addresses of the persons to whom the services were furnished and the areas in
6 which such operations have been or are being conducted.

7 5. Methods of operation the licensee will use and the description of
8 the aircraft, ground and meteorological services to be utilized.

9 6. Names of the contracting parties within the state, including:

10 (a) The area to be served.

11 (b) The months in which operations will be conducted.

12 (c) The dates when evaluations will be submitted.

13 B. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
14 ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED
15 BY SECTION 45-117.

16 Sec. 22. Section 45-1605, Arizona Revised Statutes, is amended to
17 read:

18 45-1605. Equipment license; fee; application; reports required;
19 revocation of license

20 A. Any individual or corporation engaging in manufacturing, selling or
21 offering for sale, leasing or offering to lease, licensing or offering to
22 license equipment and supplies designed for weather control or cloud
23 modification shall, before engaging in such manufacture, sale or offering for
24 sale, procure a license from the director. The license shall be issued upon
25 payment of a license fee of ten dollars and the filing of an application
26 which shall show:

27 1. The name and address of the applicant.

28 2. The full description of the type and design of the equipment and
29 supplies manufactured and sold by the applicant.

30 3. The operating technique of the equipment or supplies.

31 B. Within sixty days after issuance of an equipment license and
32 semiannually thereafter, the licensee shall file with the director a copy of
33 all advertising material used in selling or offering for sale, leasing or
34 offering for lease, licensing or offering for license the equipment and
35 supplies manufactured or sold by it.

36 C. The holder of a license shall within ten days after each sale of
37 equipment or supplies report to the director, in writing, the exact character
38 and quantity of equipment or supplies sold, the date of the sale and the
39 persons to whom the sale was made.

40 D. Failure to file a copy of advertising material or reports required
41 in this section constitutes grounds for immediate revocation of the equipment
42 license.

43 E. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
44 ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED
45 BY SECTION 45-117.

1 Sec. 23. Legislative intent

2 If the legislature authorizes the department of water resources to
3 collect or impose a fee, assessment or other levy to be used for a specific
4 purpose and not to fund the state general fund, the monies so collected must
5 be used only for the purposes authorized by law. This act is intended to
6 restore the trust of the people of this state and the businesses that operate
7 in this state and that have paid and will be required to pay these fees,
8 assessments and other levies that those monies will be used for the stated
9 purpose and not for some other purpose.

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.